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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/822,124	03/30/2001	Ellen M. Nelson	10003323-1	8877

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EXAMINER

BHATIA, AJAY M

ART UNIT	PAPER NUMBER
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2145

DATE MAILED: 01/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/822,124	Applicant(s) NELSON ET AL.	
	Examiner Ajay M. Bhatia	Art Unit 2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-19 is/are rejected.
- 7) ☒ Claim(s) 10 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

Response to arguments received November 3, 2005. Applicants amendment to the claims to are sufficient to over come the 101 rejection. (medium is defined in the specification page 7 line 8-9). Terminal Disclaimer filed over comes the Obviousness-type double patenting.

Applicant argues the 102(e) rejection in page 6 through 16 in his response. A majority of the response is explaining applicant interpretation of prior art with little or no reference how it differs from applicants own claims, therefore examiner can only address arguments that explicit.

Applicant makes multiple arguments:

1. Barrick does not disclose claims 1 and 11
2. Barrick does not disclose test instructions to record web browser activity to generate a transaction
3. Barrick does not disclose test instructions to edit the transaction
4. Barrick does not disclose generating a transaction
5. Barrick does not disclose performing an automated test of the Internet server system using the transaction, or recording browser activity as a series of steps and editing the transaction to specify test measurements for each step
6. Barrick does not disclose recording browser activity
7. Barrick does not disclose editing the transaction to specify test measurements

8. Barrick does not disclose saving transaction
9. Barrick does not disclose adding test measurements to a transaction
10. Barrick does not disclose recording pauses for the steps of a transaction

In support of the arguments a majority of the arguments of the applicants are dependant upon transaction, applicant defines multiple of the related terminology but does not define transaction therefore examiner uses broadest possible interpretation.

In response to argument 1, it is just a argument with no specific features argued therefore examiner refers applicant to current rejection.

In response to arguments 2, 3, 4, 5, 7, 8, and 9 in which the key argument is dependant upon the existence of a transaction. The transaction is the HTTP get request (Col. 2 lines 17-35). The transaction occurs between the client and the server. For argument 2, 3, 4, Barrick discloses HTTP GET which is the test instruction (Col. 2 lines 17-35), generating is the original request generated with the original request (Col. 2 lines 17-35). For argument 3, 7, editing the transaction is modified a HTTP GET request (Col. 2 lines 36-54). For argument 5, test is measure the download time of a webpage (Col. 2 line 2). For argument 6, browser agent is operable to a log (Col. 2 line 40-41). For argument 8, saving is discloses as a log (Col. 2 line 59). For argument 9, disclose a list of page for selection to provide additional monitoring (Col. 7 lines 31-35).

For argument 10, examiner has considered the argument and therefore change changes the reflect the further consideration.

Allowable Subject Matter

Claims 10 and 20 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Barrick, Jr. et al. ("Barrick"), USPN 6,006,260.

Regarding claim 1, Barrick discloses a software product for a computer system to configure a transaction for a user operating a web browser wherein the transaction is used for automated testing of an Internet server system, the software product comprising: test instructions configured direct a processor to interact with the web browser and the Internet server system to record web browser activity to generate the

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transaction [Barrick, col. 2, lines 18-35 and col. 4, line 60 – col. 5, line 6]; edit the transaction [Barrick, col. 2, lines 18-53 and col. 8, line 27 – col. 9, line 45]; perform an automated test of the Internet server system using the transaction; display test results to the user from the automated test [Barrick, col. 2, lines 36-53 and col. 7, line 52 – col. 8, line 26]; save the transaction for subsequent automated testing of the Internet server system; and a storage medium configured to store the test instructions [Barrick, col. 2, lines 36-53 and col. 9, lines 28-45].

Regarding claim 2, Barrick further discloses the test instructions are further configured to direct the processor to interact with the web browser and the Internet server system through a firewall [Barrick, col. 5, lines 17-35].

Regarding claims 3 and 4, Barrick further discloses the test instructions are further configured to direct the processor to record the web browser activity to generate test measurements, wherein one of the test measurements is a sequence of web pages [Barrick, col. 2, lines 18-35 and col. 4, line 60 – col. 5, line 6].

Regarding claim 5, Barrick further discloses the test instructions are further configured to direct the processor to add test measurements to the transaction including transaction time and transaction data transfer rate [Barrick, col. 7, lines 9-67].

Regarding claim 6, Barrick further discloses the test instructions are further configured to direct the processor to record the browser activity as a series of steps and to edit the transaction to specify test measurements for each step [Barrick, col. 2, lines 36-53 and col. 7, line 52 – col. 8, line 26].

Regarding claims 7-9, Barrick further discloses one of the test measurements for each step is elapsed time, one of the test measurements for each step is a required string in an Internet server system response and one of the test measurements for each step is a prohibited string in an internet server system response [Barrick, col. 7, lines 9-67].

Regarding claims 11-19, claims 11-19 have similar limitations as claims 1-9. Therefore, the similar limitations are disclosed under Barrick for the same reasons set forth in the rejection of claims 1-9.

Conclusion

Applicant is suggest to consider the prior art provided in the sighted 892 when formulating any additional amendments, since the cited art provides additional patents and pre-grant publications are/is in same filed of invention.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ajay M. Bhatia whose telephone number is (571)-272-3906. The examiner can normally be reached on M-F 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571)272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jason Cardone
Supervisor Patent Examiner
Art Unit 2145

AB